

REMARKS

Claims 1-30 are currently pending in the application. No amendments have been made and therefore no prohibited new matter has been added.

In the Office Action, claims 1-30 were rejected. Claims 1-2, 5-20, and 23-30 are rejected under 35 USC § 102(e) as being anticipated by U.S. Patent Application No. 10/443,177 to Heyns et al. (hereafter “Heyns”). Claims 3-4 and 21-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Heyns in further view of Official Notice.

Reconsideration of the rejected claims is respectfully requested in view of the above amendments and following remarks.

Heyns does not anticipate the claims

The Office Action again rejects claims 1-2, 5-20, and 23-30 as being anticipated by Heyns. Heyns discloses a method for aiding management in selecting goals for an organization based on querying a computer database. Heyns further discloses software tools to aid management in the budgeting process by performing financial comparisons of companies and projecting stock values based on inputted strategies.

To establish a prima facie case of anticipation under 35 U.S.C. § 102(b), the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. MPEP 2131. Applicant respectfully maintains that this criterion has not been met for Heyns as applied to claims 1-2, 5-20, and 23-30 of the present invention.

As explained in Applicant’s previous Response, claim 1 of the present invention recites, in part, “a cost lever analysis tool adapted to receive financial data inputs regarding the target company and calculate normalized diagnostic information.” Heyns fails to disclose a tool for calculating normalized diagnostic information, as recited in claim 1. In fact, Heyns explains that “differences in accounting standards and reporting practices across companies, industries and countries may lead to consolidation and standardization variations” with Heyns’s invention and that “[t]he data is not a substitute for understanding the implications associated with financial reporting practices of a specific company, industry or company [sic].” Heyns, paragraph 62. Heyns discloses one of the very problems that this invention is designed to solve. However,

Heyns does not disclose a tool for calculating normalized diagnostic information, as recited in claim 1.

The Office Action disagrees with this assertion and notes that Heyns discloses using the VMFAT tool to calculate revenue growth. Applicant respectfully disagrees with this characterization of Heyns. Heyns discloses a tool for visually comparing financial metrics for different companies and mentions the use of a net revenue growth metric in comparisons, but does not disclose, teach, or suggest calculating normalized diagnostic information. Regarding the VMFAT tool, Heyns repeatedly refers to its function as comparisons and graphical representations of data. (“The purpose of the VMFAT is to enable fast financial comparative analyses The user can elect to see the resulting comparison in either graphical or numerical data form, can select a number of different companies to compare side-by-side simultaneously, can compare the results over a number of selected years, and can compare the results to either the industry average or the sector average.” Paragraph 0053; “By comparing the selected companies on the bases of various metrics...” Paragraph 0058; “Another way of using the VMFAT tool is to analyze the *relative* performance of different companies that are similarly situation [sic]...” Paragraph 0059 (emphasis added).)

Heyns does not teach or suggest the calculation of normalized diagnostic information in order to make those comparisons. Rather, as mentioned above, Heyns highlights the problem of a lack of normalization. Heyns explains that the metrics used are based on standardized historical financial information and other miscellaneous information, but if additional normalization is required, that must be completed through off-line analysis. (“[VMFAT] contains standardized historical financial information.... Comparative graphs across the metrics can be viewed and copies to other documents or presentations via screen print and cropping functions. Additionally, the raw data and back-up financial statements can be downloaded in to EXCEL® or other spreadsheet or similar program for further off-line analysis.” Paragraph 0060.) Paragraphs 0052 through 0060 disclose a software tool for comparison of already standardized, pre-calculated data, but Heyns does not disclose a tool for calculating normalized diagnostic information.

For at least this reason, Heyns fails to teach or suggest all the elements of claim 1. Thus, Applicant respectfully submits that the rejection of claim 1 is now moot and that the claim is

now in condition for allowance. Claims 2-15 depend directly or indirectly from claim 1 and incorporate all the limitations of claim 1. Applicant submits these dependent claims are allowable for at least the reasons cited above with respect to claim 1.

Also as explained in Applicant's previous response, Heyns does not disclose an electronic network system "wherein said cost levers identified by said cost lever analysis tool are correlated by said cost reduction strategy tool to one or more appropriate business capabilities recommended as providing at least one element of a cost reduction strategy adapted to target one or more of said identified cost levers." Heyns discloses a set of software tools for evaluating business decisions inputted by the user into a software interface to produce data and graphs predicting future stock values and cash flows. Heyns does not disclose a system that identifies cost levers and recommends appropriate cost reduction strategies based on analysis performed by the invention.

For this additional reason, Heyns fails to teach or suggest all the elements of claim 1. Thus, Applicant again respectfully submits that the rejection of claim 1 is now moot and that the claim and all dependent claims are now in condition for allowance.

With respect to claim 16, Heyns does not disclose a computer storage medium with operations including "performing financial calculations on said financial data to produce normalized diagnostic information regarding the cost structure of said target company." As mentioned above with regard to claim 1, Heyns highlights the problem of a lack of normalization in the Heyns invention but does not disclose performing the normalization calculations.

The Office Action again points to paragraphs 0059-0060 and the VMFAT tool of Heyns, but as explained above, Heyns discloses a tool that compares different companies based on already standardized metrics rather than performing financial calculations or producing normalized diagnostic information.

Also again, Heyns does not disclose "correlating a plurality of business capabilities with a plurality of possible cost levers." Heyns discloses four tools to aid in strategic planning by producing data and graphs for inputted strategies, but Heyns does not disclose an interworking between the tools to the degree of correlating business capabilities with cost levers.

For at least these reasons, Heyns fails to teach or suggest all the elements of claim 16. Thus, Applicant respectfully submits that the rejection of claim 16 is now moot and that the

claim is now in condition for allowance. Claims 17-30 depend directly or indirectly from claim 16 and incorporate all the limitations of claim 16. Applicant submits these dependent claims are allowable for at least the reasons cited above with respect to claim 16.

Heyns does not render the claims obvious

Claims 3-4 and 21-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Heyns in view of Official Notice.

To establish a prima facie case of obviousness, three criteria must be met. First, there must be some reason to modify the reference or to combine the reference teachings. Second, there must be some expectation of success. Third, the prior art references must disclose or suggest all of the claimed features. See MPEP 2143 and the May 3, 2007 letter from the PTO Deputy Commissioner for Patent Operations regarding *KSR Int'l Co. v. Teleflex, Inc.* Applicant respectfully submits that these criteria have not been met for Heyns in view of Official Notice as applied to claims 3-4 and 21-22 of the present invention.

Claims 3-4 and 21-22 depend directly or indirectly from claims 1 or 16 and incorporate all the limitations of the base claims. As noted above with respect to claims 1 and 16, Heyns fails to teach or suggest at least the claimed calculation or production of normalized diagnostic information. The Official Notices do not address this deficiency. Applicant is not addressing the Official Notices but rather explaining that they do not remedy the deficiency of Heyns as outlined above, and therefore Heyns in view of the Official Notice does not teach, disclose, or suggest all the elements of claims 1 or 16. Thus, Applicant submits that a prima facie case of obviousness is lacking for claims 3-4 and 21-22 for at least this reason. Withdrawal of the rejection based on 35 USC § 103(b) is requested.

CONCLUSION

For all of the foregoing reasons, it is respectfully requested that the rejections set forth in the Office Action be withdrawn. All pending claims are allowable over the art of record, and the application is submitted to be in condition for allowance. Favorable reconsideration and a timely Notice of Allowance are respectfully requested.


In the event that an appropriate fee amount is not enclosed by check for fees associated with new claims fees, extension of time fees, or Information Disclosure Statement fees that may be due, please charge any deficiencies or credit any overpayments to deposit account no. 50-1349.

Finally, in the event that the Examiner considers certain currently rejected claims to be allowable over the prior art and feels that informal discussion would be helpful in progressing the current application toward allowance, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

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